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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/883,619

06/18/2001

Robert Martin Wynalda JR.

1949-A-CIP

5116

45069

7590

03/31/2008

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EXAMINER

CHEVALIER, ALICIA ANN

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

03/31/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/883,619	<b>Applicant(s)</b> WYNALDA ET AL.	
	<b>Examiner</b> Alicia Chevalier	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 7-15, 23, 27, 28, 30-32 and 34-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-15, 23, 27, 28, 30-32 and 34-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **RESPONSE TO AMENDMENT**

### ***Request for Continued Examination***

1. The Request for Continued Examination (RCE) under 37 CFR 1.53 (d) filed on January 22, 2008 is acceptable and a RCE has been established. An action on the RCE follows.
2. Claims 7-15, 23, 27, 28, 30-32 and 34-39 are pending in the application, claims 1-6, 16-22, 24-36, 29 and 33 have been cancelled.
3. Amendments to the claims, filed on January 22, 2008, have been entered in the above-identified application.

### ***REJECTIONS***

4. **The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.**

### ***Claim Rejections - 35 USC § 103***

5. Claims 7-15, 23, 27, 28, 30-32 and 34-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weisburn et al. (U.S. Patent No. 5,697,498) in view of Eskandry (U.S. Patent No. 6,409,013).

Weisburn discloses a CD or DVD storage container for holding media multiple discs (*title and figure 2*) and for providing multiple locations for printed graphics (*col. 7, lines 17-19*). The storage container comprising a cover having a front cover member, a rear cover member, and a spine disposed between the front and rear cover members (*figure 2*). The container further

Art Unit: 1794

comprises at least one page having a structure adapted to hold at least one item of recorded media, the page having a first and second side surfaces and is deemed to be adapted to hold at least one item or recorded media disposed on one of the first and second sides of the page (*figure 2*). The at least one page having at least one edge and the front and rear cover members being moveable between open and closed positions (*figure 2*). Each page being adapted to hold two items of recorded media and each page including being formed from two page halves that are connected together in a back to back arrangement so that two discs are accessible from opposite sides of each page and each page being substantially rigid (*figure 2*). The edge of the page cooperates with the spine to define a pocket that is V-shaped in cross section to provide a pocket, the V-shaped pocket with an apex disposed between the first and second sides of the page (*figures 7-9*).

Weisburn fails to disclose the edge of the page being connected to the spine with an adhesive to connect the page to the cover and the cover being fabricated from paperboard.

Eskandry discloses a compact disk case (*title*) comprising a cover made plastic or cardboard, i.e. paperboard, (*col. 11, lines 9-22*) and the means for mounting the pages to the spine includes adhesive bonding the plate hinge segment to the spine (*col. 3, lines 6-15 and col. 11, lines 25-29*).

It would have been obvious to one of ordinary skill in the art at the time of the invention to adhesively bond the pages of Weisburn to the spine as taught by Eskandry in order to reduce cost and processing steps. Furthermore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use paperboard for the cover in Weisburn as taught by Eskandry, since it is obvious to use equivalent materials for the same intended use.

Weisburn further discloses that the page halves are connected together with locking fingers (*latching tabs, col. 6, line 12*). The page halves define a pocket associated with each locking finger and each locking finger is disposed in one of the pockets to protect the locking finger (*figures 5 and 5a*). The container further comprises a literature card disposed between the page halves (*col. 7, lines 17-19*). Each page half includes a rear surface with a planar portions that abut the literature card (*figures 5 and 5a*). The page halves are substantially transparent (*col. 7, lines 17-19*). Each page half includes a planar portion surrounding the disc holding hub (*figures 5 and 5a*). The front and rear covers pivot with respect to the outer spine (*figures 1 and 2*).

The limitation “the page halves are connected together with a weld” is a method limitation and does not determine the patentability of the product, unless the process produces unexpected results. The method of forming the product is not germane to the issue of patentability of the product itself, unless Applicant presents evidence from which the Examiner could reasonably conclude that the claimed product differs in kind from those of the prior art. MPEP 2113.

#### ***ANSWERS TO APPLICANT’S ARGUMENTS***

6. Applicant’s arguments in the response filed January 22, 2008 regarding the previous rejections of record have been considered but are moot due to the new grounds of rejection.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (571) 272-1490. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye, can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Alicia Chevalier/  
Primary Examiner, Art Unit 1794  
3/31/2008